

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DAX PIERSON,

Plaintiff(s),

No. C 06-6503 PJH

v.

ORDER

PATRICK SCOTT, et al.,

Defendant(s).

Before the court is the parties' stipulation and request to continue the Monday August 4, 2008 trial date to Thursday August 21, 2008. The basis for the request is the unavailability of defense counsel for the periods July 28 - August 1 due to a prior commitment and his unavailability August 9 -18 due to a previously planned vacation. On January 18, 2007, this case was initially set for trial to commence February 11, 2008. At a further case management conference on October 11, 2007, the parties requested and the court agreed to continue the trial to August 4, 2008. At neither conference did defense counsel advise the court that he would not be available for the agreed upon August 4, 2008 date. So the court presumes that the conflict arose after the trial date was set. The January 18, 2007 pretrial order specifically warns that conflicts arising after the dates set by that order, would not be sufficient to establish good cause for the amendment of the pretrial schedule.

Accordingly, defense counsel must explain how it is that he scheduled a vacation for a date on which he was scheduled for trial or whether he had simply overlooked a vacation that had previously been scheduled and paid for. A declaration will suffice.

Additionally, three weeks was initially set aside for trial due to the presence of

1 multiple defendants. Now that only one defendant remains, the court anticipates that less
2 time will be needed. Counsel shall meet and confer and provide a revised estimate fo the
3 length of time needed for trial.

4 Finally, the court does not commence trials on Thursdays and neither August 18 nor
5 25 are available due to other trials currently calendared. Accordingly, if a continuance is
6 ultimately granted, a later date will be selected based on the court's calendar.

7 **IT IS SO ORDERED.**

8 Dated: May 23, 2008

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11 PHYLLIS J. HAMILTON
12 United States District Judge
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